

PT 97-39

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

GOSPEL KINGDOM CHURCH OF)		
MT. CARMEL)		
Applicant)		
)	Docket #	94-93-1
v.)		
)	Parcel Index	#11-30-200-014
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Ms. Cindy R. Baum appeared on behalf of the Gospel Kingdom Church of Mt. Carmel.

Synopsis:

The hearing in this matter was held at 2309 West Main Street, Marion, Illinois, on June 25, 1996, to determine whether or not Wabash County Parcel No. 11-30-200-014 qualified for exemption from real estate taxation for the 1994 assessment year.

Rev. John F. Peach, pastor of the Gospel Kingdom Church of Mt. Carmel, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include first whether the applicant owned this parcel during all or part of the 1994 assessment year. The second issue is whether the applicant is a religious organization. The final issue is whether the applicant was either in the process of adapting this parcel and the buildings thereon for religious use or actually used this parcel for religious purposes during a portion or all of the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined

that the applicant owned this parcel during the period October 12, 1994, through December 31, 1994. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant was in the process of adapting this parcel for religious use and did use this parcel for religious or church purposes during the period October 12, 1994, through December 31, 1994. Consequently, this parcel and the buildings thereon qualify for exemption for the period October 12, 1994, through December 31, 1994.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption during the 1994 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 5B.

2. During 1994, the applicant, had approximately 115 members and an average weekly attendance at worship services of 90 on Sundays and 60 on Wednesdays and Saturdays. Church services were held during 1994 at the applicant's sanctuary on Cherry Street. These services were held on Sunday mornings at 9:30 A.M. and Sunday evenings at 7:00 P.M. During 1994, worship services were also held on Wednesday evenings and Saturday evenings at 7:00 P.M. at the sanctuary. This sanctuary building is approximately a mile from the parcel here in issue. (Tr. p. 35)

3. The applicant purchased the parcel here in issue, which was a former oil field service yard, at an auction which was held on August 6, 1994. (Tr. pp. 10-14)

4. This parcel, which contained 2.87 acres was conveyed to the applicant by a warranty deed dated October 12, 1994. (Dept. Ex. Nos. 1 & 1G)

5. When the applicant purchased this parcel, it was improved with a 40 foot by 80 foot concrete block office building, a 43 foot by 63 foot pole storage barn, a 38 foot by 21 foot tin covered garage, an oil field barrel storage barn, approximately 45 concrete pipe storage racks, 2 one thousand

gallon underground storage tanks, and a five hundred gallon underground fuel oil storage tank. (Tr. pp. 10 & 11, and Dept. Ex. No. 1L)

6. Applicant purchased this parcel because it was the right size for a church facility including adequate room for parking. In addition, it was located on a state highway near the edge of town. Also, the elevation of this parcel was relatively high, so there should be no water problems. The applicant was well aware when it purchased this property of its former use, and that the buildings would require substantial adaptation. (Tr. pp. 12 & 13)

7. Between the date the applicant acquired this parcel and December 31, 1994, the applicant started tearing down the old oil drum storage building. Then the office in the pole barn was removed. The applicant then put a new roof on the van garage. A new sewer line was put in. Also, the applicant hired a contractor to come in and remove the pipe racks. (Tr. p. 13)

8. During this period, the applicant also put both men's and women's restrooms in the concrete block office building. In addition, the concrete block office building was insulated and the inside was renovated. The applicant, also during that period, began the process with the Illinois Environmental Protection Agency to remove the underground storage tanks. (Tr. pp. 13-15)

9. At about this same time, the applicant discovered that this parcel was outside of the City of Mt. Carmel. The applicant immediately began the process of getting the parcel annexed to the city. (Tr. pp. 16 & 17)

10. During October 1994, the applicant held a dedication service on this parcel.

11. Also, during the Christmas vacation of 1994, the concrete block office building was used as a dormitory for high school and college age youth who attended the applicant's annual youth conference. (Tr. pp. 18-20)

12. The applicant did not charge the youth who stayed in this dormitory facility during the youth conference. (Tr. p. 21)

13. The work that has been performed on this parcel, to adapt it for religious or church use, has primarily been performed by volunteers from the applicant and various neighboring churches. (Tr. p. 23)

14. The applicant has continued to engage in adapting this parcel from December 31, 1994, to the date of the hearing, June 25, 1996. (Tr. p. 26)

15. On the date of the hearing, the applicant was in the process of erecting a dining hall on this parcel, using donated lumber. The applicant also received a substantial amount of donated lumber to be used in the church sanctuary to be erected on this parcel. (Tr. pp. 27 & 28)

16. The building of the sanctuary on this parcel has been delayed. The applicant's sale of its current church building did not go through because of zoning problems. (Tr. p. 30)

17. As a result of several in-kind contributions, the applicant hopes to have the sanctuary building completed and in use by December of 1996. (Tr. p. 38)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes. All property used exclusively for school and religious purposes...and not leased or otherwise used with a view to profit, is exempt....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141

(1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Based on the foregoing findings of fact, I conclude that the applicant owned this parcel during the period October 12, 1994, through December 31, 1994, and that the applicant is a religious organization.

Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). I therefore conclude that the applicant was in the process of adapting this parcel and the buildings thereon for religious or church use from October 12, 1994, through December 31, 1994. I also point out that this parcel was used for religious purposes on two occasions during this period. The first was the dedication service, and the second was the use of the office building as a dormitory for the applicant's youth conference.

I therefore recommend that Wabash County Parcel No. 11-30-200-014 be exempt from real estate taxation for 22% of the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
June 25, 1997